THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.No. 4698 of 2006

Dated: 12.06.2006

Between

M/S. Indo Aquatics Limited,

502, Pent House, Vamsee Estates,

Ameerpet, Hyderabad rep. By

Its Director Mr.J.B.Reddy

..Petitioner

and

The Superintendent of Customs

& Central Excise, Range-I,

Nellore and 3 others …. Respondents

JUDGMENT : (per JC,J)

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Writ Petition is filed with the prayer as follows :

> "For the reasons stated in the accompanying affidavit, it is prayed that the Hon'ble Court may be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction calling for the records relating to the stay order Nos.86 and 87/2005 dated 28.1.2005 and miscellaneous order Nos.328 & 329/2005 dated 18.5.2005 and the consequential final order Nos.1426 & 1427 dated 16.8.2005 in E/Misc/396 & 397/2005 in 593 & 642/2005 and set aside them as illegal, arbitrary and unreasonable and consequently to direct the 4th respondent to restore

the appeal petitions of the petitioner arising out of order in appeal Nos.12/2004 (G) CE dated 23.1.2004 and 32/2004(G) CE dated 11.2.2004 passed by the 3rd respondent, by dispensing with the condition of pre deposit of Rs.10,99,087/- and another sum of Rs.2,08,462/- and to restrain the 1st respondent from taking any coercive steps against the petitioner and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case."

Aggrieved by an order of the 2nd respondent dated 12.11.1999, the petitioner preferred an appeal before the 3rd respondent and the 3rd respondent directed the petitioner to deposit Rs.8 lakhs (Rupees Eight lakhs only) on receipt of the order. Though the petitioner could not comply with the said order, the respondent disposed of eventually the appeal preferred by the petitioner by an order dated 23.1.2004. Aggrieved by the same, the petitioner carried the matter in a further appeal to the Tribunal (the 4th respondent) and again filed an application to dispense with the requirement of pre-deposit of duties. By an order dated 28.1.2005, the 4th respondent initially directed the petitioner to deposit certain amounts. The petitioner did not comply with the said order and moved a further Miscellaneous Application No.328 and 329 of 2005. Even the same was rejected by an order dated 28.7.2005. Again the petitioner moved another application seeking modification which was rejected by the order dated 16.8.2005 and hence the present writ petition.

It is not that the Tribunal did not consider the case of the petitioner. The direction initially granted on 28.1.2005 is only to deposit part of the amount demanded from the petitioner.

In the circumstances, we do not see any reason to interfere with the discretionary order passed by the 4th respondent. The writ petition is therefore dismissed at the admission stage.

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knk 12.06.2006